

## Executive Summary

*This document describes the federally-mandated review and update of the Hawaiian Islands Humpback Whale National Marine Sanctuary Management Plan, which outlines a proposed shift to ecosystem-based management supported by a suite of sanctuary-wide and location-specific regulations designed to enhance protection of sanctuary resources while limiting, to the extent possible, adverse impacts to the public. Additionally, up to five boundary additions are proposed, the sum of which amounts to 235.2 square miles, or 17 percent of the current size of the sanctuary.*

### **Hawaiian Islands Humpback Whale National Marine Sanctuary Context**

The Hawaiian Islands Humpback Whale National Marine Sanctuary (sanctuary) covers approximately 1,370 square miles of federal and state waters in the Hawaiian Islands. Congress designated the sanctuary in 1992 through the Hawaiian Islands National Marine Sanctuary Act (HINMSA). The Act requires the development of a comprehensive management plan with implementing regulations to govern the overall management of the site and to protect sanctuary resources and qualities. As expressed by Congress in the HINMSA, the purposes of the sanctuary are to (1) protect humpback whales and their habitat in the area described in section 2305(b); (2) educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment; (3) manage human uses of the sanctuary consistent with the Act and National Marine Sanctuaries Act (NMSA); and (4) provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary.

The sanctuary is co-managed by the National Oceanic and Atmospheric Administration (NOAA) and the State of Hawai‘i (State) through a compact agreement that was signed in 1998. NOAA and the State entered into an intergovernmental Compact Agreement in 1998 for the purpose of clarifying the relative jurisdiction, authority, and conditions of the NOAA-State partnership for managing the sanctuary. It clarifies the State's continuing authority and jurisdiction over its State waters, submerged lands, and other resources within the sanctuary. The agreement establishes provisions with respect to NOAA's collaboration with the State of Hawai‘i on sanctuary management issues and recognizes that no federal, state, or local title or authority to manage and regulate submerged lands, resources, or activities, has been limited, conveyed or relinquished. The Compact Agreement states that NOAA and the State will collaborate in the management of the sanctuary and its resources, and clarifies that the sanctuary management plan will apply throughout the sanctuary, including the portion of the sanctuary within the seaward boundary of the State. The Department of Land and Natural Resources (DLNR) serves as the lead agency in administering the co-management of the sanctuary.

### **Management Plan Review Process**

The sanctuary management plan was last updated in 2002. A sanctuary management plan is a site-specific planning and management tool that describes the sanctuary's goals, objectives, guides future activities, outlines staffing and budget needs, and sets priorities and performance measures for resource protection, research and education programs. The NMSA requires the Office of National Marine Sanctuaries (ONMS) to periodically review and evaluate the progress

in implementing the management plan and goals for each sanctuary, with special focus on the effectiveness of site-specific approaches and strategies. ONMS must revise management plans and regulations as necessary to fulfill the purposes and policies of the NMSA (16 U.S.C. §1434(e)) to ensure that sanctuary sites continue to best conserve, protect, and enhance their nationally significant living and cultural resources.

Sanctuary management has been considering the need for a more comprehensive approach to marine resource management in Hawai‘i for some time. The Hawaiian Islands National Marine Sanctuary Act (HINMSA) expressly states that the sanctuary will “provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary” (Section 2304(b)). During the 2002 management plan review (MPR), the sanctuary received comments from the general public requesting that the sanctuary consider the conservation and management of marine resources in addition to humpback whales and their habitat. In response, sanctuary management included a goal in the 2002 management plan to “identify and evaluate resources and ecosystems for possible inclusion in the sanctuary” (HIHWNMS Management Plan 2002). This updated management plan is designed to address all of these factors and through the management plan review process to inform (and be informed by) sanctuary constituents regarding the sanctuary, its accomplishments to date, and its revised goals, objectives and planned management actions.

The process to develop the sanctuary draft management plan proposed in this document began in the summer of 2010 when the sanctuary initiated a 90-day public scoping process. During that time, sanctuary management conducted a series of public meetings to solicit feedback from the public about how to proceed with management. In total, several hundred community members, stakeholders, and agency representatives attended ten public scoping meetings held on the islands of Hawai‘i, O‘ahu, Kaua‘i, Maui, Moloka‘i, and Lāna‘i. Individuals and stakeholders who were unable to attend the public scoping meetings also had the opportunity to submit written comments online or in writing. A total of 12,375 public submissions were submitted to the sanctuary by agencies, organizations, elected officials and community members. The sanctuary advisory council (council) reviewed the public scoping comments and established working groups to further examine priority issues. The working groups were made up of council members, community and user group representatives, and technical experts. The working groups produced reports that overwhelmingly illustrated the need for a more holistic approach to managing marine resources within the sanctuary. The *Ecosystem Protections Recommendation Report*, developed by the Ecosystem Protections working group, specifically recommended ecosystem-based management as an appropriate approach to effectively managing the marine environment. The *Native Hawaiian Culture Recommendation Report*, developed by the Native Hawaiian working group, provided guidance about integrating traditional Native Hawaiian management perspectives into an ecosystem-based management framework. The activities described in the draft management plan reflect these recommendations and describe how the sanctuary proposes to transition from single-species management of humpback whales to an ecosystem-based management approach.

### **Structure of the Draft Management Plan and Draft Environmental Impact Statement**

This document includes both the draft management plan (DMP) and a draft environmental impact statement (DEIS). The DEIS evaluates the potential environmental, cultural and

socioeconomic impacts of the proposed sanctuary actions, including: changing the name from Hawaiian Islands Humpback Whale National Marine Sanctuary to *Hawaiian Islands National Marine Sanctuary - Nā Kai 'Ewalu*, expanding sanctuary boundaries, revising sanctuary regulations and implementing new sanctuary action plans. The DEIS has been prepared in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. § 4321 *et seq.*, its implementing regulations (40 C.F.R. § 1500-1508), and NOAA's implementing procedures for NEPA (NAO 216-6). Below is a summary of each of the major sections of this combined DMP/DEIS.

Section 1 (Introduction) of this document explains the components and function of the draft management plan and draft environmental impact statement, and points to the NEPA required sections.

Section 2 (Background) provides overviews of the sanctuary, the National Marine Sanctuary System, DLNR, and the sanctuary advisory council. It also describes the mandate of the ONMS under the National Marine Sanctuaries Act.

Section 3 (Sanctuary Management Plan Review) describes the process undertaken to produce the management plan proposed in this document. This section describes the history of considering a more holistic approach to resource management in the sanctuary, beginning with assessing additional resources in the sanctuary, followed by workshops and briefings with the sanctuary advisory council, staff and the public. A public scoping process was initiated by the sanctuary in 2010 and over 12,000 comments were received. Based on the priority issues identified from that feedback, the sanctuary organized workshops that lead to the development of the action plans presented in this document.

Section 4 (Purpose and Need) articulates the reasoning for the sanctuary's proposed transition to ecosystem-based management. This section defines ecosystem-based management and how its application in the sanctuary could benefit marine resources in Hawai'i, honoring the legacy of native Hawaiian stewardship. The section also includes the purpose that drives the proposed action, which includes the sanctuary's vision, mission, values, guiding principles and goals. These elements were inspired by the findings of the *Visioning Workshop* conducted with the sanctuary advisory council and sanctuary staff.

Section 5 (Site Description) details the physical attributes of the Hawaiian archipelago, including the geology, geomorphology/bathymetry, oceanography, ocean chemistry, meteorology and climatology. This general information provides context for the description, in the following section, of the aspects of the environment that could be affected by the proposed action.

Section 6 (Affected Environment) provides a description of biophysical and human environments in Hawai'i as subtext to the management plan, as well as context for understanding how each of the alternatives may affect those environments. The description of the biophysical environment of Hawai'i includes habitat types, marine species, protected marine species, and water quality, as well as a summary of the current threats to the biophysical environment. The description of the human environment encompasses economic, social, cultural, and historical aspects of the population in Hawai'i, both resident and visitor alike, including human uses of the marine environment. The description of the institutional environment in Hawai'i provides

context for how the sanctuary operates amongst other state and federal agencies. The current roles of sanctuary staff, and the facilities that the sanctuary operates, are all described in the subsection on operational environment.

Section 7 (Site Specific Affected Environment) details the environments, both human and biophysical, within and adjacent to specific locations proposed for inclusion in the sanctuary or for which site-specific actions are proposed. The biophysical environment of each specific location is detailed, including habitats and marine species, along with the threats to marine resources. The cultural and historic significance of the area, along with current human uses of the marine environment, are included to provide context for the local human environment. Institutions with particular management objectives in the area are described to explain how sanctuary actions will complement current management. The areas detailed in this section are Ni‘ihau, Haena, Hanalei and Pīla‘a on Kaua‘i, Ali‘i Beach and Maunalua Bay on O‘ahu, Penguin Bank off Moloka‘i and the Maui Nui area. The information in this section is used to analyze the potential consequences (see Section 9) of the proposed actions (see Section 8).

Section 8 (Proposed Action and Alternatives) describes a suite of alternatives, each of which describes a differing set of proposed boundary additions, new and revised *regulations*, and non-regulatory actions (see **Table 1**).

The section explains how the ONMS and sanctuary superintendent developed these alternatives. In addition, the section describes alternatives considered, but eliminated, and explains the reasons for such eliminations. Alternatives analyzed herein include the following (summarized in brief):

#### **Alternative 1 – Status Quo**

- Continued operation under the 2002 Management Plan
- Existing regulations protecting humpback whales and their habitats
- Existing sanctuary boundaries

#### **Alternative 2**

- Five boundary changes:
  - Establishing new sanctuary boundaries around Ni‘ihau
  - Extending boundary to Ali‘i Beach on the North Shore of O‘ahu
  - Aligning boundary with the ahupua‘a of Ha‘ena on Kaua‘i
  - Aligning boundary with the ahupua‘a of Pīla‘a on Kaua‘i
  - Extending the boundary around the ledges on the south end of Penguin Bank
- Revised management plan with an ecosystem-based approach (see Section 10)
- New and revised regulations
  - Sanctuary name changed to *Hawaiian Islands National Marine Sanctuary – Nā Kai ‘Ewalu*
  - Revision of existing sanctuary-wide regulations (see explanation below)
  - New sanctuary-wide regulation prohibiting the disturbance of submerged cultural and maritime heritage resource
  - New Special Sanctuary Management Area regulations (see explanation below) apply to Penguin Bank and Maui Nui

**Alternative 3 (preferred alternative)**

- Same boundary changes as under Alternative 2
- Same revised management plan as Alternative 2
- Same new and revised regulations as Alternative 2, plus
  - New Special Sanctuary Management Area regulations apply to Maunalua Bay in addition to Penguin Bank and the Maui Nui Area

**Alternative 4**

- Same boundary changes as under Alternatives 2 and 3, plus
  - Extending boundary 1.5 miles up the Hanalei River on Kauaʻi
- Same revised management plan as Alternative 2 and 3
- Same new and revised regulations as Alternative 2 and 3, plus
  - New Special Sanctuary Management Area regulations apply sanctuary-wide

Alternative	Boundary changes	Regulations		
		Revised Sanctuary-Wide Regulations	New Sanctuary-Wide Regulations	Special Sanctuary Management Area Regulations
1	<i>Status Quo – none of the above boundary changes or regulations apply.</i>			
2	Niʻihau	Sanctuary-wide	Sanctuary-wide	Penguin Bank/ Maui Nui
	North Shore, Oʻahu			
	Haʻena, Kauaʻi			
	Piʻlaʻa, Kauaʻi			
	Penguin Bank			
3 (Preferred)	Niʻihau	Sanctuary-wide	Sanctuary-wide	Penguin Bank/ Maui Nui and Maunalua
	North Shore, Oʻahu			
	Haʻena, Kauaʻi			
	Piʻlaʻa, Kauaʻi			
	Penguin Bank			
4	Niʻihau	Sanctuary-wide	Sanctuary-wide	Sanctuary-wide
	North Shore Oʻahu			
	Haʻena, Kauaʻi			
	Piʻlaʻa, Kauaʻi			
	Penguin Bank			
	Hanalei, Kauaʻi			

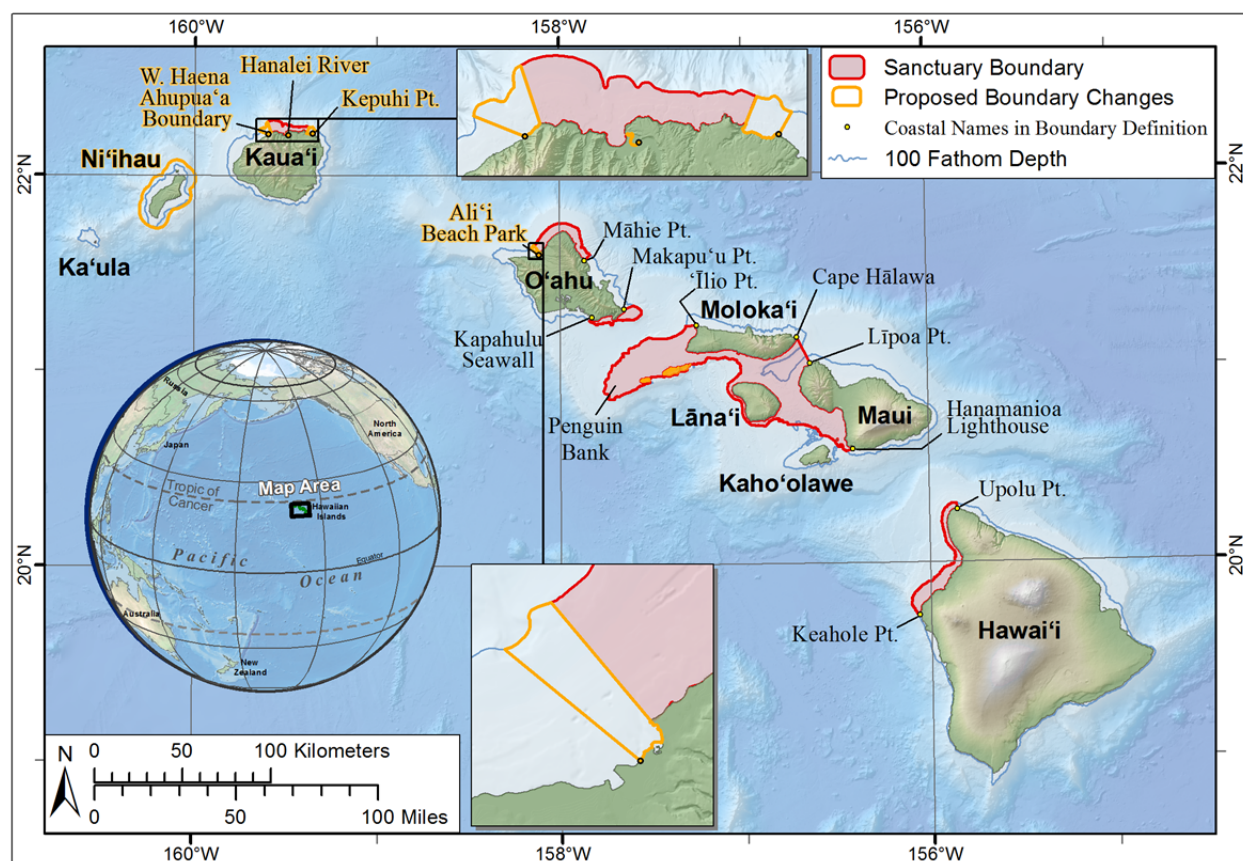
**Table 1. Comparison of Proposed Alternatives and Preferred Alternative (Alternative 3).**

Special Sanctuary Management Area regulations, which apply to differing areas in Alternatives 2, 3 and 4, include prohibitions against: (1) taking or possessing marine species in addition to humpback whales; (2) discharging from within the sanctuary; (3) discharging from outside the sanctuary anything that enters and injures a sanctuary resource; (4) altering submerged lands; (5) using explosives; (6) introducing non-native species; and (7) damaging or destroying signs.



The revisions to the current sanctuary-wide regulations, proposed under Alternative 2, 3 and 4, include: (1) the approach regulation would be clarified and articulated; (2) the two regulations prohibiting the taking and possession of humpback whales would be combined into one regulation; (3) the prohibition against discharge in the sanctuary would be removed as the current language provides no real regulatory authority to the sanctuary to directly address this issue; (4) the prohibition against discharging from outside the sanctuary anything that enters and injures a sanctuary resource would be removed as the current language provides no real regulatory authority to the sanctuary to directly address this issue; (5) the prohibition on altering submerged lands would be removed as the current language provides no real regulatory authority to the sanctuary to directly address this issue; and (6) authority to issue sanctuary permits and authorizations would be added.

The sanctuary proposes four boundary changes under Alternatives 2, 3, and 4 including extending the western sanctuary boundary on the north shore of O‘ahu to include Ali‘i Beach Park, extending the sanctuary eastern and western boundaries on the north shore of Kaua‘i to include the Pīla‘a ahupua‘a and the Hā‘ena ahupua‘a, and establishing new sanctuary boundaries around NI‘ihau. In addition, Alternative 4 proposes to incorporate the estuarine waters of the Hanalei River into the sanctuary on the north shore of Kaua‘i.



**Figure 1. Proposed boundary changes for the Hawaiian Islands National Marine Sanctuary.**

Section 9 (Environmental Consequences) provides a summary of potential impacts of the proposed alternatives on the natural and human environment in comparison to the baseline of No

Action. The impact analysis for each of the alternatives occurs on three levels: (1) the set of actions proposed for each of the alternatives; (2) the physical, biological, and cultural resources and human uses impacted by those actions; and (3) the specific locations where these impacts occur. A discussion of the factors used to determine the significance of direct and indirect impacts (pursuant to 40 C.F.R. § 1508.8 section 5.1.2) is included.

Alternative 1 upholds the status quo therefore has no new environmental impacts, positive or negative. Each subsequent alternative has increasingly beneficial impacts to the biophysical environment due to the increased area proposed for inclusion in the sanctuary and increased protection by regulatory and non-regulatory actions. As such, Alternative 4 offers the most benefits to biological and physical resources. In the summary below of environmental consequences of proposed actions, the impacts of regulatory and non-regulatory action, both positive and negative, increase in each subsequent alternative due to the increasing size of the sanctuary as a whole and the regulated Special Sanctuary Management Areas therein.

Given the ecosystem-based management approach adopted in developing the proposed management plan and regulations, many aspects of the marine ecosystems within the sanctuary should benefit from these actions. For example, through water quality monitoring and restoration activities proposed in the *Water Quality Protection Action Plan* along with the proposed discharge regulation, water quality should see a significant benefit. Management activities outlined in actions plans, such as *Understanding and Managing Species and Habitats* and *Resilience to a Changing Climate*, should benefit marine species and habitats. The application of Special Sanctuary Management Area regulations, including the prohibition of taking and possessing special marine species, altering submerged lands, discharging, using explosives, and introducing non-native species, marine species and habitats in the sanctuary should benefit from increased protections.

Most aspects of the human environment in the sanctuary should benefit from the proposed actions through the conservation of cultural, historic and natural resources. The proposed regulatory and non-regulatory ecosystem-based management actions should provide economic benefits by preserving a healthy ecosystem, which is more valuable than an unhealthy one to both ocean users and non-users. Cultural and maritime heritage resources should benefit both from the proposed regulation prohibiting disturbance of these resources, as well as the non-regulatory actions proposed in the *Living and Evolving Cultural Traditions* and *Maritime Heritage Action Plans*. Human activities that depend on healthy marine resources, such as fishing, recreation and tourism, should also benefit from the proposed regulatory and non-regulatory ecosystem-based management actions. Legal fishing activities will not be negatively impacted by the prohibitions against altering submerged lands and discharging in the sanctuary due to exceptions to those prohibitions. Education, research and monitoring efforts should benefit from the support and opportunities provided in *Ocean Literacy* and *Understanding and Managing Species and Habitats Action Plans*. Human health and safety in the sanctuary and adjacent areas would benefit from the protections outlined in the *Emergency Preparedness and Damage Assessment Action Plan*.

Section 10 (Action Plans) presents sixteen action plans designed to guide sanctuary management over the next five to ten years in transitioning to ecosystem-based management and achieving the sanctuary vision, mission and goals outlined in this document. This section explains how the

action plans were developed based on public comments and working group recommendations. Each action plan begins with an overview, which explains the issues their activities aim to address, and a desired future outcome attained through the plan's activities. An output is defined for each activity and performance measures based on these outputs are designed to guide the sanctuary's accomplishment of the plans. Sanctuary staff developed budgets for the execution of each plan over the next five years. **Table 2** lists the sixteen action plans by thematic area, along with the desired future outcome that the sanctuary seeks to attain through implementing the plan.

Action Plan	Desired Outcome
<b>Implementing Ecosystem Protection</b>	
Understanding and Managing Species and Habitats	A resilient marine ecosystem able to respond to and recover from change, that supports sustainable ecosystem functions and services, and healthy populations of biologically, culturally, and economically significant marine species and habitats.
Resilience to a Changing Climate	A climate resilient sanctuary maintained through innovative management approaches and supported by an informed public.
Water Quality Protection	Water quality standards and levels of compliance that support healthy ecosystems, habitats and marine resources, as well as human activities that are compatible with resource protection.
<b>Perpetuating Cultural Heritage</b>	
Living and Evolving Cultural Traditions	Ho'ohawai'i: foster the uniqueness of Hawai'i through the understanding of both historical and contemporary local knowledge about coastal and marine environments, and the perpetuation of customary environmental practices and principles within the sanctuary.
Maritime Heritage	NOAA, the State of Hawai'i, partner agencies, businesses and local communities are engaged in the identification and appreciation of maritime heritage resources in Hawai'i to effectively preserve these resources for the benefit of current and future generations.
<b>Transitioning Towards Sustainability</b>	
Community Partnerships	Informed and empowered human communities that are actively engaged in dialogues and initiatives to facilitate an integrated management approach that perpetuates a healthy co-existence between humans and the marine environment.
Ocean Literacy	An ocean literate public with increased awareness, knowledge and appreciation of natural and cultural marine resources in order to promote and enhance ocean stewardship.



Sustainable Use	Vibrant coastal communities and economies that promote the sustainable use of the marine environment.
<b>Sanctuary Focus Areas</b>	
Ni'ihau	The preservation of healthy coastal and marine ecosystems, and the rich cultural history of Ni'ihau.
Ptīla'a	A replicable model for applying both traditional Hawaiian and western science-based management practices to restore the health of nearshore ecosystems in the Ptīla'a ahupua'a.
Southern Maui Nui	Establish a research area in the waters of the Mā'alaea area of Maui island to better understand and improve water quality.
Maunalua Bay	The community's kuleana of Maunalua Bay characterized by healthy coral reef and sea grass habitats, abundant coral reef marine life and high water quality standards is achieved by caring for this place with future generations in mind.
<b>Ensuring Management Effectiveness</b>	
Operational Foundation	Effective and well-planned operations, human resources and adequate physical infrastructure to support effective management of the sanctuary.
Compliance and Enforcement	A high level of compliance achieved through the adherence to sanctuary regulations, guidelines, and best practices resulting in increased protection of the marine environment within the sanctuary.
Emergency Preparedness and Damage Assessment	Increased protection of sanctuary resources from both natural hazards and human-caused incidents or injuries, through coordinated emergency response and damage assessment.
Assessing Progress	A performance evaluation framework to continually gauge the sanctuary's progress in meeting its management goals and objectives.

**Table 2. Action plans grouped in thematic areas with desired outcomes.**

This document includes twelve appendices: Appendix A lists relevant protected species in Hawai'i; Appendix B lists cultural sites occur within or adjacent to the sanctuary; Appendix C describes military activities in Hawai'i; Appendix D details the proposed sanctuary regulations; Appendix E describes the proposed new regulations, permits and authorization; Appendix F includes other authorities in Hawai'i who regulate the same activities the sanctuary proposes to regulate; Appendix G lists State of Hawai'i DLNR marine bottom ecosystem classifications; Appendix H lists agencies receiving copies of this DMP/DEIS; Appendix I lists acronyms used in this document and their meaning; Appendix J lists Hawaiian terms used in this document and their English translations; Appendix K defines technical words used in this document; Appendix

L is the sanctuary designation document; Appendix M lists credits for images used in this document.

It should be noted that a separate rulemaking package will be proposed in the Federal Register to request public comment on the proposed changes to the sanctuary's regulations under the proposed action. Descriptions of these potential regulatory changes appear in Section 8; and the environmental consequences of these regulatory changes are analyzed in Section 9.

A notice will be published in the Federal Register to alert the public of both the availability of the joint DMP/DEIS as well as the opening of a public comment period. Written public comments can be submitted via e-mail, fax, phone or letter. Oral public comments can be submitted at any of the several public hearings that ONMS will hold in the state. For more information on these public hearings or on how to submit public comments, in addition to all the documents developed for the management plan review, please visit the sanctuary's management plan website at:

[http://hawaiihumpbackwhale.noaa.gov/management/management\\_plan\\_review.html](http://hawaiihumpbackwhale.noaa.gov/management/management_plan_review.html)